

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri.Siddabathula Nageswara Rao S/o Late Veerraju, Occ:Technical Assistant (Engg.) Materila Organization Eastern Naval Command, VSP– Filed against the Proceedings, dated: 9-3-2006 of the Collector, East Godavari District, - Appeal Rejected – Orders –Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No.179

Dated:04-09-2008
Read the following:-

- 1.Proceedings of the Collector, East Godavari District Ref.C5(M)/8113/97, Dated: 9-3-2006.
- 2.Appeal Petition filed by Sri.Siddabathula Nageswara Rao S/o Late Veerraju, Occ:Technical Assistant (Engg.) Materila Organization eastern Naval Command, VSP, Dated: 26-3-2006.
- 3.Govt. Memo No.2719/CV.2/2006-1, Dated: 28-3-2006.
4. From Collector, Kurnool District, Ref.C5 (M)/889/2006,Dated: 25-7-2006.
5. Memo No.2719/CV.2/2006, Dated: 17-6-2008.

ORDER:

Sri.Siddabathula Nageswara Rao S/o Late Veerraju, has filed appeal petition before Govt. against the Proceedings, dated 9.3.2006, issued by the District Collector, East Godavari, for cancellation of his ST “Konda kapu ” Caste Certificate, and submitted the following grounds:

1. That the order passed by the District Collector, East Godavari is erroneous and without any authority of law and liable to be set aside.
2. The District Collector ought to have seen that the report submitted by the then Tahsildar, Yellavaram Mandal is confirmed and certified by the R.D.O., Peddapuram and also issued caste certificate to the effect that he belong to Kondakapu.
3. The District Collector ought to have seen that the caste certificate was issued way back in the year 1977 vide Ref. E8506/76 dt:18-11-1976 by the RDO., Peddapuram.
4. The District Collector ought to have seen that no enquiry whatsoever was conducted by the Revenue authorities after the certificate was issued.
5. The District Collector ought not to have relied upon the report submitted by the MRO., Samalkot., and should have acted taking also the report of the then Tahsildar of the confirmation of the same by the RDO., Peddapuram.
6. The District Collector should have seen that the caste certificate is not a fabricated one but it is issued by the Revenue Authorities.
7. The District Collector should have seen that the appellant is appointed as General Candidate as “FOREMAN”
8. The Learned District Collector ought not to have entertained the enquiry at this belated stage i.e after more than 25 years.
9. The District Collector ought to have seen that though for the purpose of studies the appellant migrated to samalkot, but fact remains that he hails from agency village Cherkumallu village of the then Yellavaram Taluq.

10. The appellant did not tamper with any document neither produced a fabricated document but he has produced the caste certificate issued by the Revenue Authorities.

11. The District Collector has not issued any notice before passing impugned order which is against the principles of natural justice.

2). The Govt. in the Memo, 3rd read above, has requested the District Collector, East Godavari District, to furnish remarks and connected records on the appeal petition filed by the appellant. The same has been furnished by the District Collector, East Godavari, in his letter 4th read above.

3) The case was posted for personal hearing on 31-8-2007, 17-9-2007, 20-11-2007 and finally heard on 30-6-2008. The Appellant is absent on all hearings and his Counsel was present.

4) On careful examination of the grounds for Appeal, reports of enquiry, findings of the DLSC., and orders of the District Collector, East Godavari in the impugned proceedings, parawise remarks of the District Collector on the appeal petition, documents and material on file, it is found that the grounds for appeal are not sustainable for the following reasons:

1. The Appellant is claiming ST status as belonging to Kondakapu community simply based on his family's residence at Cherukumalla (v) in the then Yellavaram Taluq (Agency area) of East Godavari District prior to 1970s and the entries of his caste as Kondakapu in his school records (SSLC. Register, TC) and the Caste Certificate issued by the then RDO., Peddapuram. There is no documentary evidence to prove his family's residence in Agency area except the oral statements of certain villagers during the enquiry by the VAO., Chintalapudi group which was again based on the statement of the VAO., Mohanapuram who worked as Trainee Officer of Boddagunta (v) during 1972-84 under which the Cherukumalla was said to be a hamlet. This VAO. also stated that the villagers of Boddagunta informed him that the people of Siddabathula surname used to reside in the village and hence he certified that the appellant belongs to Kondakapu community.

2. The Additional RI in his enquiry stated that he recorded the statement of the Appellant read over to him and the Appellant admitted the facts recorded as true and correct. It is interesting to note that the statement of the Appellant was dated: 27-3-2000, and the above endorsement of the Addl. RI is dated: 17-4-2000. Therefore, it is clear that the Addl. RI has endorsed on the pre-written statement of the Appellant without personally enquiring into the case. He did not come to verify the documentary evidences in the MRO's Office to know the veracity of the statement of the appellant or of the then VAO., but simply submitted report to MRO. who also forwarded the same findings to the RDO., Rampachodavaram in his letter dated: 19-4-2000. Thus, this report on which the appellant is relying more, is not a proper enquiry report and hence, the decision of DLSC., or the Collector in not considering the same is correct. Even it is considered the Appellant's family resided in Cherukumalla (v), it is a fact that all people residing in Agency areas are not STs or Kondakapus. The RDO., Peddapuram, has issued (2) Caste Certificates to the Appellant, one dated: 18-11-1976 and the other dated: 7-4-1977 by which time the appellant was a resident of Samalkota and there were no any of his relatives at Cherukumalla (v) and it is clear that the caste certificates were issued without conducting any proper enquiry and might be based on the caste entries in the SSLC. Register and TC. of the Appellant. These caste entries, as admitted by the Appellant, are based on the declaration of his mother while admitting him into VI class at ZPMP School, Samalkot. Such declaration leading to caste entries are not reliable as there is no mechanism or prescribed procedure to verify the genuineness of such declarations at the time of admission into schools. There is every possibility for wrong declarations of caste.

3. In this connection, it is pertinent to mention that the MRO., Y.Ramavaram, in his enquiry report dated:01-12-1998 based on the statement of the Boddagunta (v) reported that Cherukumalla, a hamlet of Boddagunta (v) is not there in the Mandal and there are no people with surname of Siddabathula and Kondakapu caste people in that village or neighboring villages. If this is the position in the year 1998, how the MRO., Y.Ramavaram reported in 2000 reported that Cherukumalla was a hamlet of Boddagunta village and the people of Kondakapu caste with Siddabathula surname used to reside in that village? Hence, this reported is not reliable.
4. The report of the MRO., Samalkot, that the people of Siddabathula street who know the family members of the Appellant well have stated that the Appellant's family members belong to Kapu caste but they were telling that they belong to Manyam Kapu as they came from Agency. There is a street called 'Siddabathulavari Sandu' near Shandy market in Samalkot. There are 3 families of Siddabathula surname residing in this street and majority of the families belong to Kapu caste. Existence of a street/locality on the name of the Appellant's surname also indicates that Siddabathula surname people were the popular residents of that locality from a long time in the past.
- 5) On the whole, though as per section (6) of the Act 16 of 1993 and Rule (6) issued there under, the burden of proof lies on the Appellant, he failed to furnish any valid evidence in support of his ST status claim as belonging to Kondakapu community.
- 6) In view of the above, all the grounds for Appeal are not tenable especially that the District Collector, East Godavari has not given show cause notice which is against the principles of natural justice is absolutely incorrect. Show Cause Notices were issued through his Advocate from 15-10-2004 to 15-10-2005 duly communicating the findings of DLSC. The Appellant's counsel has also submitted his objection on 15-10-2005. After considering the same and all other material on file, the District Collector, East Godavari has issued the orders in the impugned proceedings.
- 7) It is a fact that the caste /community of a person comes by birth from his parents. The appellant could not prove with any valid evidence that his parents belonged to Kondakapu community before any enquiry authority, DLSC., the Collector or the Appellate authority i.e., Government. Hence there are no merits in the appeal.
- 8) Therefore, in view of the above facts, and in exercise of the powers conferred under Section 7(2) of Act 16 of 1993, under Rules made there under as per G.O.Ms.No.58, SW (J) Department, dated 12.5.1997, the appeal petition filed by Sri.Siddabathula Nageswara Rao S/o Late Veerraju, is hereby rejected, upholding the Proceedings of the District Collector, East Godavari, Ref.C5 (M)/8113/97,Dated: 9-3-2006.
- 9) The records received from the District Collector, East Godavari, through the reference 4th read above, are returned herewith in original to him, and he is requested to acknowledge receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.NAGI REDDY,
PRINCIPAL SECRETARY TO GOVT.

To
The District Collector,East Godavari (WE).Original Record,
File bearing No. C5/M/8113/97, dated 9.3.2006.

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Sri.Siddabathula Nageswar Rao,
S/o Late Veerraju,
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Copy to:
The PS to Minister(TW& Riad) / PS to Principal Secretary (TW)
The Director, Tribal Welfare, Hyderabad.
Sf/Sc.

//Forwarded::By Order//

SECTION OFFICER.